

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA

v.

HARRY M. NIMMONS

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No. 3:01-CR-74

**ORDER**

This criminal case is before the court on the defendant's *pro se* motion and a motion filed on his behalf by the Federal Defender Services brought pursuant to 18 U.S.C. § 3582(c) [docs. 38 and 41]. The government has responded and has no objection to application of the retroactive amendments to the crack cocaine guidelines [doc. 42].

The defendant was sentenced on February 11, 2002, to 40 months in prison for possession with the intent to distribute five grams or more of crack cocaine. This sentence was based on a guideline range of 46 to 57 months (base offense level 23 and a criminal history category I), which was reduced based on the government's motion for a downward departure due to substantial assistance. According to the Bureau of Prisons, the defendant is scheduled for release on November 15, 2008.

Under the retroactive amendment to the crack guidelines, the defendant's new guideline range is 37-46 months (base offense level 21 and a criminal history category I). With a comparable departure (13%), the defendant's sentence would be 32 months.

It is hereby **ORDERED** that the defendant's motions are **GRANTED**, and the defendant's sentence is reduced to **32 months**. If this sentence is less than the amount of time the defendant has already served, the sentence is reduced to a "time served" sentence. This Order shall take effect ten (10) days (day-for-day) from its entry in order to give the Bureau of Prisons time to process the release of the defendant. Except as provided above, all provisions of the judgment dated February 13, 2002, shall remain in effect.

ENTER:

s/ Leon Jordan  
United States District Judge